

## REMARKS

Entry of the foregoing, prior to examination on the merits, is respectfully sought and earnestly solicited.

As originally filed, the parent application, U.S. Serial No. 09/971,020, contained Claims 1-15. By Preliminary Amendment filed with the parent application, original Claims 1-15 were canceled and Claims 16-34 were added. In an Official Action mailed June 21, 2002 (Paper No. 8), a restriction requirement was made containing Group I (Claims 16 and 17, "drawn to polypeptides"); Group II (Claims 18-27, 32, and 33, "drawn to a gene, a transformed plant wherein expression of the gene is decreased, seed obtained from said plant, a method for the production of a transformed plant in which biosynthesis of theobromine is inhibited, by decreasing expression of said gene"); and Group III (Claims 28-31 and 34, "drawn to a transformed plant wherein a gene is introduced to increase theobromine biosynthesis, seed obtained from said plant, and a method for production of said transformed plant"). In the parent application, Applicants elected the subject matter of Group II. *See Response to Restriction Requirement Filed July 16, 2002.*

By the instant Preliminary Amendment, Applicants have canceled original Claims 1-15 and have added Claims 16-18, directed to isolated polypeptides — the subject matter of original claims 1-2, Claims 16-17 of the Preliminary Amendment in the parent application, and, therefore, the subject matter of Group I from the parent application's restriction requirement. Accordingly, no new matter has been added.


**CONCLUSION**

Should the Examiner have questions regarding the foregoing, or the application in general, he is invited to telephone the undersigned at the number listed so that prosecution may be expedited.

Respectfully submitted,

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